

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOMAS E. PEREZ,
Plaintiff,

v.

SEAFOOD PEDDLER OF SAN RAFAEL,
INC., et al.,
Defendants.

Case No. [12-cv-00116-WHO](#)

PROPOSED JUDGMENT

The Court intends to issue the following form of judgment. If the parties wish to be heard on the proposed form of judgment, the matter will be heard on **Wednesday September 24, 2014 at 2:00 p.m. in Courtroom 2 on the 17th Floor.**

The jury having reached a verdict in this case in favor of Plaintiff Thomas E. Perez, United States Secretary of Labor (the Secretary), and against Defendants Seafood Peddler of San Rafael, Inc. (Seafood Peddler) and Alphonse Silvestri (Silvestri), JUDGMENT IS HEREBY ENTERED against Defendants Seafood Peddler and Silvestri in accordance with the prayer for relief in the complaint, as follows:

1. IT IS ORDERED, ADJUDGED, AND DECREED that pursuant to Section 17 of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 217, Defendants Seafood Peddler and Silvestri, are permanently enjoined and restrained from violating the provisions of the FLSA, in any of the following manners:

a. Defendants Seafood Peddler and Silvestri shall not, contrary to Sections 7 and 15(a)(2) of the FLSA, 29 U.S.C. §§ 207 and 215(a)(2), employ any of their employees who in

1 any workweek is engaged in commerce or the production of goods for commerce, or who is
2 employed in an enterprise engaged in commerce or in the production of goods for commerce,
3 within the meaning of the FLSA, for workweeks longer than forty hours, unless such employee
4 receives compensation for his employment in excess of forty hours at a rate not less than one and
5 one-half times the regular rate at which he is employed.

6 b. Defendants Seafood Peddler and Silvestri shall not fail to make, keep and
7 preserve records of employees and of the wages, hours, and other conditions and practices of
8 employment maintained, as required by Sections 11(c) and 15(a)(5) of the FLSA, 29 U.S.C. §§
9 211(c) and 215(a)(5), and the implementing regulations found in 29 C.F.R. Part 516, and make
10 such records available to authorized agents of the Secretary for inspection, transcription, or
11 copying, upon their demand for such access.

12 c. Defendants Seafood Peddler and Silvestri shall not, contrary to section
13 15(a)(3) of the Act, 29 U.S.C. § 215(a)(3), discharge or in any other manner discriminate, or
14 solicit or encourage anyone else to discriminate, against any employee because such employee has
15 or is believed to have filed any complaint, including making a complaint to Defendants, testified
16 in any FLSA proceeding, or instituted or caused to be instituted any FLSA proceeding or has
17 provided information to the Department of Labor in any such proceeding.

18 2. IT IS FURTHER ORDERED AND ADJUDGED that:

19 a. Defendants Seafood Peddler and Silvestri shall pay to the Secretary
20 \$92,872.25 in back wages, plus the additional sum of \$92,872.25 as liquidated damages, pursuant
21 to Section 16(c) of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 216(c), by delivering a
22 cashier's check or money order for \$185,744.50, with the name of "Seafood Peddler" and "Back
23 Wages and Liquidated Damages" written on it, payable to the order of the "Wage & Hour Div.,
24 Labor," to District Director Susana Blanco, Wage and Hour Division, United States Department of
25 Labor, 90 7th St., Suite 12-100, San Francisco, CA 94102. The Secretary shall distribute said back
26 wages and liquidated damages to the employees named in the attached Exhibit A in the amounts

1 set forth therein. The Secretary shall be responsible for deducting the employees' share of FICA
2 and federal income taxes from the back wage amounts paid to the persons named in the attached
3 Exhibit A, and for remitting said deductions to the appropriate federal agencies. Defendants
4 Seafood Peddler and Silvestri are responsible for the employer portion of employment taxes on the
5 back wages hereby found due.

6 b. Defendants Seafood Peddler and Silvestri shall pay to the Secretary \$5.00 in
7 damages pursuant to FSLA Section 15(a)(3), 29 U.S.C. § 215(a)(3), by delivering a cashier's
8 check or money order for \$5.00, with the name of "Seafood Peddler" and "Section 15(a)(3)
9 damages" written on it, payable to the order of the "Wage & Hour Div., Labor," to District
10 Director Susana Blanco, Wage and Hour Division, United States Department of Labor, 90 7th St.,
11 Suite 12-100, San Francisco, CA 94102. The Secretary shall distribute \$1.00 of said damages to
12 each of the following employees: Amado Wenceslao Castillo, Hector Hernandez, Sergio A. Mejia,
13 Luis F. Sandoval, and Esau Santos.

14 c. The Secretary is entitled to his costs in this action pursuant to Fed. R. Civ.
15 P. 54(d)(1).

16 d. JUDGMENT IS HEREBY ENTERED against Defendants Seafood Peddler
17 and Silvestri in the total amount of \$185,749.50.

18 **IT IS SO ORDERED.**

19 Dated: September 18, 2014

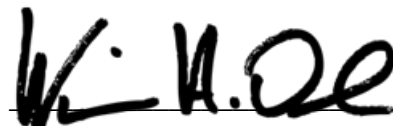
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21 WILLIAM H. ORRICK
22 United States District Judge
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EXHIBIT A

Employee	Back Wages	Liquidated Damages
Sergio A. Mejia	\$14,461.79	\$14,461.79
Alejandro Perez	\$7,500.00	\$7,500.00
Luis F. Sandoval	\$14,496.86	\$14,496.86
Esau Santos	\$13,000.00	\$13,000.00
Noel Viera	\$25,663.60	\$25,663.60
Victor Viera	\$17,750.00	\$17,750.00
TOTAL	\$92,872.25	\$92,872.25